IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.717 OF 2005

Mahadev Krishna Gavali and Ors. .. ..Appellants

Versus

Smt.Anusaya Sambhaji Gavali & Anr. ..Respondents

Mr.P.D.Dalvi for appellants

Mr.Mandar Limaye for respondent no.1

CORAM : P.V.KAKADE, J.

DATE : 25TH JULY, 2005.

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by Addl. District Judge, Kolhapur dated 13.5.2005 partly allowing the appeal which was preferred against the judgment and order dated 8.4.2005 passed by Civil Judge Junior Division, Kolhapur dismissing the plaintiffs suit and directing the plaintiffs to pay compensatory cost to the

defendants. The lower appellate court confirmed the findings of the lower court except the direction regarding payment of compensatory cost saddal on the plaintiffs.

2. I have heard the learned counsel for both the parties. Perused the record.

2. The plaintiffs filed the suit on the ground that the suit property was joint family property of the parties and they were having right and interest therein. On the other hand it was the case of the defendant No.1 that the suit property was her self acquired property and as such the suit was sought to be dismissed.

. The learned trial judge adjudicated the dispute and came to the conclusion that the plaintiffs had failed to prove that the suit property was joint family property and further held that the defendant no.1 had established that the suit property was her self acquired property and in the result the plaintiffs suit was dismissed. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the sides came to the conclusion that the findings

recorded by the trial court were correct except to the direction that the plaintiffs to pay compensatory cost to the defendants and it proceeded to hold that the plaintiffs had not established that the suit property was joint family property. It was also held that the defendant no.1 succeeded in proving that the suit property was her self-acquired property in part and appeal came to be disposed of. Hence the present appeal.

4. At the outset it may be noted that there is absolutely no substantial question of law involved in this appeal. It appears from the record that both the courts below have adjudicated the dispute on merits in proper perspective after properly appreciating the evidence on record. The record further showed that the appellants-plaintiffs did not discharge their burden to prove that the suit plot was jointly acquired for joint family or there was sufficient nucleus to make acquisition of the suit plot. In the result I have to hold that there is no substance in the appeal and it deserves to be dismissed and stands dismissed.

. Consequently Civil Application No.1226 of 2005

also stands dismissed.